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INTERIM EQUIPMENT LEASE ~~INTERSTATE COMMERCE COMMISSION~~

RE: DULUTH, WINNIPEG & PACIFIC RAILWAY COMPANY
(D. W. P. Trust No. 2)

THIS EQUIPMENT LEASE dated as of August 17, 1970 between GEORGE D. MACKAY AND EDWARD E. CASTANS, not in their individual capacities but solely as Trustees under a Trust Agreement dated as of August 17, 1970 (the "Lessor"), UNITED STATES LEASING INTERNATIONAL, INC., a California corporation, as agent for Lessor (the "Agent") and DULUTH, WINNIPEG & PACIFIC RAILWAY COMPANY, a Maine corporation (the "Lessee");

WITNESSETH:

SECTION 1. MANUFACTURE AND DELIVERY OF EQUIPMENT.

1.1. The Lessor is acquiring certain railroad equipment (collectively the "Equipment" and individually "Item of Equipment") described in Schedules 1-A through 1-F attached hereto and made a part hereof and, upon delivery of each Item of Equipment by the Manufacturer thereof (the "Manufacturer"), the Lessor shall lease and let such Item of Equipment to the Lessee and the Lessee shall hire such Item of Equipment from the Lessor for the rental and on and subject to the terms and conditions herein set forth.

1.2. Upon delivery of each Item of Equipment by the Manufacturer thereof the Lessee will inspect such Item of Equipment and if such Item of Equipment tendered for delivery appears to meet the specifications, the Lessee will accept delivery thereof and sign and deliver to such Manufacturer and Lessor duplicate Certificates of Acceptance, substantially in the form of Schedule 2 attached hereto and made a part hereof.

1.3. The Lessee's execution and delivery to the Lessor of the Certificates of Acceptance with respect to each Item of Equipment shall conclusively establish that each Item of Equipment is accepted by and accepted by the Lessee under this Lease, notwithstanding a defect with respect to design, manufacture, condition or in any respect, and that each Item of Equipment is in good order and condition and appears to conform to the specifications applicable thereto and to all applicable Interstate Commerce Commission and all foreign or domestic governmental agency requirements and specifications, if any. The Lessee represents that it has no knowledge of such defect.

(D. W. P. Trust No. 2)

or re-record wherever and whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to, or the Secured Parties' liens and security interests of the Secured Parties in, the Equipment to the satisfaction of the Lessor's or the Secured Parties' counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor proof of such filing and an opinion of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, re-filing, registering, re-registering, recording, re-recording of any such instruments or incident to the taking of such action.

10.2 The Lessee, or the Lessor at the Lessee's expense, shall report, pay and discharge when due all license and registration fees, assessments, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of Equipment, and other taxes, fees and governmental charges similar or dissimilar to the foregoing (excluding any net income tax, provided that the Lessee agrees to pay that portion of any such net income tax which is in direct substitution for, or which relieves the Lessee from, a tax which the Lessee would otherwise be obligated to pay under the terms of this Section), together with any penalties or interest thereon, imposed by any state, federal or local government upon any Item of Equipment and whether or not the same shall be assessed against or in the name of the Lessor, the Agent, the Lessee, or the Trustor under the Trust Agreement referred to in the introductory paragraph; provided, however, that the Lessee shall not be required to pay or discharge any such tax or assessment (i) so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment; however, the Lessee shall reimburse the Lessor for any damages or expenses resulting from such failure to pay or discharge, or (ii) as to assessments against or in the name of anyone other than the Lessee, until 20 days after written notice thereof shall have been given to the Lessee.

SECTION 11. PAYMENT FOR CASUALTY OCCURRENCE FOR EQUIPMENT UNSERVICEABLE FOR USE.

11.1. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged or damaged beyond economic repair, or in the opinion of both the Lessor and the Lessee, obsolete or economically unserviceable for use from any cause whatsoever, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease (any such occurrence, except for any requisition which by its terms does not exceed the remaining term of this Lease, being hereinafter called a Casualty Occurrence), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor in regard thereto.

11.2. When the aggregate Casualty Value (as herein defined) of Items of Equipment described in any given Schedule having suffered a Casualty Occurrence (exclusive of Items of Equipment described in such Schedule having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Lessor pursuant to this Section 11) shall exceed \$60,000 the Lessee shall, on the next succeeding rental payment date, pay to the Lessor a sum equal to the Casualty Value of such Item or Items of Equipment as of the date of such payment; provided, that notwithstanding the foregoing the Lessee shall on the last applicable rental payment date of each calendar year pay to the Lessor a sum equal to the Casualty Value of any Item or Items of Equipment which have suffered a Casualty Occurrence during such calendar year or any prior year for which no payment has previously been made to the Lessor pursuant to this Section 11.

11.3. Upon (and not until) payment of the Casualty Value in respect of any Item or Items of Equipment, the obligation to pay rental for such Item or Items of Equipment (including the Fixed Rental installment due on the Casualty Value payment date) shall terminate, but the Lessee shall continue to pay rental for all other Items of Equipment. The Lessee shall pay when due all rental payments as to an Item or Items due prior to the date on which the Casualty Value thereof is payable.

11.4. The Lessee shall, as agent for the Lessor, dispose of such Item or Items of Equipment as soon as it is able to do so for the best price obtainable. Any such disposition shall be on an "AS IS", "WHERE IS" basis without representation or warranty, express or implied. As to each separate Item of Equipment so disposed of the Lessee may retain all amounts of such price plus any insurance proceeds and damages received by the Lessee by reason of such Casualty Occurrence up to the Casualty Value attributable thereto and shall remit the excess, if any, to the Lessor. In disposing of such Item or Items of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item or Items of Equipment.

11.5. If the Lessee shall have notified the Lessor that an Item or Items of Equipment have suffered a Casualty Occurrence prior to the commencement of Fixed Rental hereunder with respect thereto, the date of such Casualty Occurrence for such Item or Items shall be deemed to be one day after the due date of the first installment of Fixed Rental.

11.6. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid as provided in this Section 11 (and not the date of the Casualty Occurrence) equal to that percentage of the original cost to the Lessor of such Item of Equipment as set forth in the Schedule of Casualty Value attached hereto as Schedule 3.

11.7. The Lessee shall bear the risk of and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment after the date hereof.

11.8. In the event that during the term of this Lease the use of any item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a period which does not exceed the remaining term of this Lease, the Lessee's duty to pay rent shall continue for the duration of such requisitioning or taking. The Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession to an amount equal to the rent paid or payable hereunder for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property.

SECTION 12. ANNUAL REPORTS.

12.1. On or before April 1 in each year, commencing with the year 1971 and provided a request therefore is made by the Lessor or any of its assignees, the Lessee will furnish to all such requesting parties an accurate statement, as of the end of the preceding calendar year (a) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months or longer period between successive statements (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as Lessor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4 hereof shall have been preserved or replaced.

12.2. The Lessor or its assigns shall have the right, at its sole cost and expense, by its authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor or its assigns the existence and proper maintenance thereof during the continuance of this Lease.

SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Item of Equipment to the Lessor upon such storage tracks of the

Lessee as the Lessor may designate, or in the absence of such designation as the Lessee may select, and permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding 90 days and transport the same at any time within such 90 day period to any reasonable place on the lines of the railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to Lessee. All movement and storage of each such Item is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Item, to inspect the same. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so assemble, deliver, store and transport the Equipment.

SECTION 14. DEFAULT.

14.1. If, during the continuance of this Lease, one or more of the following events ("Events of Default") shall occur:

- (a) Default shall be made in the payment of any part of the rental provided in Section 2 hereof and such default shall continue for ten days after written notice from the Lessor to the Lessee of such default and demand the same be remedied;
- (b) The Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Equipment, or any portion thereof, and shall fail or refuse to cause such assignment or transfer to be cancelled by agreement of all parties having any interest therein and to recover possession of such Equipment within 30 days after written notice from the Lessor to the Lessee demanding such cancellation and recovery of possession;
- (c) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 30 days after written notice from the Lessor to the Lessee, specifying the default and demanding the same to be remedied;

(d) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Lessee, and, if instituted against the Lessee, is consented to or is not dismissed within 60 days after such petition shall have been filed, unless all the obligations of the Lessee under this Lease shall have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings or otherwise given a status comparable to obligations incurred by such a trustee or trustees within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(e) Any other proceedings shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder), and, if instituted against the Lessee, are consented to or are not dismissed within 60 days after such proceedings shall have been commenced, unless all the obligations of the Lessee under this Lease shall have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings or otherwise given a status comparable to obligations incurred by such a trustee or trustees within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier;

then, in any such case, the Lessor, at its option, may:

(1) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(2) by notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate

as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Equipment for any purpose whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by a fraction of which the numerator is such accrued number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Item of Equipment, which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then fair rental value of such Item for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor reasonably estimates to be obtainable for the use of the Item during such period, such present worth to be computed in each case on a basis of a 6% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, and (ii) any damages and expenses, including reasonable attorney's fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease, other than for the payment of rental.

14.2. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing

at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any off-set against the rental payments due hereunder, and agrees to make the rental payments regardless of any off-set or claim which may be asserted by the Lessee on its behalf in connection with the lease of the Equipment.

14.3. The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1. If the Lessor shall terminate this Lease pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith place such Equipment in such reasonable storage place on the Lessee's lines of railroad as the Lessor may designate or, in the absence of such designation, as the Lessee may select;

(b) Permit the Lessor to store such Equipment in such reasonable storage place on the Lessee's lines of railroad for a period not exceeding 90 days at the risk of the Lessee; and

(c) Transport the Equipment, at any time within such 90 day period, to any place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as the Lessor may reasonably direct upon not less than 30 days' written notice to the Lessee.

15.2. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants

of the Lessee so as to assemble, deliver, store and transport the Equipment.

15.3. Without in any way limiting the obligations of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to Lessor, to demand and take possession of such Item in the name and on behalf of Lessee from whosoever shall be at the time in possession of such Item.

SECTION 16. ASSIGNMENTS BY LESSOR AND LESSEE; USE AND POSSESSION.

16.1. This Lease shall be assignable in whole or in part by Lessor without the consent of Lessee, but Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. In the event that separate assignments are executed by the Lessor in respect of this Lease and the rental and other sums due and to become due hereunder, the Lessor and the Lessee agree that so long as such separate assignments remain in force and effect this Lease shall be deemed to be and shall be construed as a divisible and severable contract between the Lessor and Lessee for the leasing of Equipment covered by each such separate assignment, all to the same extent and with the same force and effect as though a separate lease had had been entered into by the Lessor and the Lessee in respect of such Equipment. Upon notice to the Lessee of any such assignment, the Rental and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to the assignee. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's title, or any interruption from whatsoever cause (other than from a wrongful act of the assignee) in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of the assignee, the Lessee shall be unconditionally and absolutely obligated to pay the assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the assignee shall have the sole right to exercise all rights, privileges and remedies (either

in its own name or in the name of the Lessor for the use and benefit of the assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor.

16.2. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment (except to the extent that the provisions of any mortgage now or hereafter created on any of the liens of railroad of the Lessee may subject such leasehold interest to the lien thereof). The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except to the extent permitted by the provisions of Sections 16.3, 16.4 or 16.5 hereof.

16.3. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Equipment and to the use thereof by it or by any other corporation which constitutes one of the "National Railways" as that term is defined in the Canadian National Railways Act, or upon lines of railroads over which the Lessee or any such corporation has trackage or other operating rights or over which equipment of the Lessee or any such corporation is regularly operated pursuant to contract and also to permit the use of the Equipment upon connecting and other railroads in the usual interchange of traffic and to permit the sub-letting or lease temporarily or to permit the emergency use by other parties of any item of Equipment in the normal course of business, but only upon and subject to all the terms and conditions of this Lease. No assignment, sublease or interchange entered into by the Lessee hereunder shall relieve the Lessee of any liability or obligations hereunder which shall be and remain those of a principal and not a surety.

16.4. Nothing in this Section 16 shall be deemed to restrict the right of Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation (which shall have duly assumed the obligations hereunder of Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of Lessee as an entirety or substantially as an entirety.

16.5. Nothing in this Section 16 shall be deemed to restrict the right of the Lessee to sublease the Equipment to any

wholly owned subsidiary of the Lessee. No such sublease shall relieve the Lessee of any liability or obligation hereunder which shall be and remain those of a principal and not a surety.

SECTION 17. REPRESENTATIONS AND WARRANTIES.

The Lessor and the Agent represent and warrant as follows:

(a) On the delivery date for each Item of Equipment the Lessor shall have such title thereto as it received from the manufacturer or supplier thereof.

(b) Any sale, assignment, transfer, mortgage or other disposition which the Lessor or the Agent may make of this Lease or any Item of Equipment covered thereby, whether prior or subsequent to execution and delivery thereof, shall be made expressly subject to the terms and provisions of this Lease and all rights of the Lessee thereunder.

(c) Neither the Lessor nor the Agent have created nor will they create any claim, lien or encumbrance against any Item of Equipment so as to interfere with or impair

(i) the Lessee's possession and use of such Item of Equipment in accordance with the terms of this Lease; or

SECTION 18. OPINIONS OF COUNSEL.

18.1. Concurrently with the delivery and acceptance of the first Item of Equipment hereunder, the Lessee will deliver to the Lessor five counterparts of the written opinion of counsel for the Lessee addressed to the Lessor, the Agent and to any assignee under Section 16 of which the Lessee has notice, in scope and substance satisfactory to the Lessor, to the effect that:

(a) The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of Maine;

(b) The Lessee has the corporate or other power and authority to own its property and carry on its business as now being conducted and is duly qualified to do business as a foreign corporation in all states in which such qualification is necessary to carry out the terms of the Lease;

(c) This Lease and the Agreement to Acquire and Lease of even date herewith, among the Lessor, the Agent and the Lessee have been duly authorized, executed and delivered by the Lessee and constitute the valid, legal and binding agreements of the Lessee enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganization, insolvency and moratorium laws from time to time in effect;

(d) Once this Lease is filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and deposited with the Registrar General of Canada pursuant to Section 148 of the Railway Act, no other filing, recording or depositing is necessary to protect the Lessor's title to the Equipment in the United States of America and in Canada;

(e) No approval, consent or withholding of objection is required from any public regulatory body with respect to the entering into or performance of the Agreement to acquire and Lease or this Lease;

(f) The execution and delivery by Lessee of the Agreement to Acquire and Lease and the Lease do not violate any provision of any law, any order of any court or governmental agency, the Act of Incorporation or By-Laws of the Lessee, or any indenture, agreement, or other instrument to which Lessee is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement, or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Lessee, except as contemplated and permitted hereby; and

(g) As to any other matters which Lessor shall reasonably request.

18.2. Concurrently with the delivery of the opinion of counsel for the Lessee as provided in Section 18.1 hereof, the Lessor will deliver to the Lessee five counterparts of the written opinion of General Counsel for the Agent and special counsel for

the Lessor, in scope and substance satisfactory to the Lessee with respect to the matters set forth in (a), (b), (c) and (f) of such Section 18.1 as such matters may appropriately pertain to the Lessor, the Agent or both of them.

SECTION 19. INTEREST ON OVERDUE RENTALS AND AMOUNTS PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding any nonpayment of rentals due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the obligation on the part of the Lessee to pay also an amount equal to 11% (or the lawful rate, whichever is less) of the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 20. NOTICES.

Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the Canadian certified mails, first class postage prepaid, addressed as follows:

If to the Agent:

Trustees under D.W.P. Trust No. 2
c/o United States Leasing International, Inc.
633 Battery Street
San Francisco, California 94111

If to the Lessee:

Duluth, Winnipeg & Pacific Railway Company
c/o Richard H. Hastings
Attorney at Law
1200 Alworth Building
Duluth, Minnesota 55802
with a copy to
Canadian National Railway Company
935 Lagauchetiere Street West
Montreal, Canada
Attention: Treasurer

If to the Lessor:

Trustees under D.W.P. Trust No. 2
c/o United States Leasing Corporation
1211 West 22nd Street
Oak Brook, Illinois 60521
with a copy to the Agent

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. A copy of any notice required or permitted to be given to the Lessor shall also be furnished in the same manner as above, addressed to:

Manufacturers and Traders Trust Company
Trustee under D.W.P. Trust No. 2
One M & T Plaza
Buffalo, New York 14240

Attention:

of the Lessee so as to assemble, deliver, store and transport the Equipment.

15.3. Without in any way limiting the obligations of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to Lessor, to demand and take possession of such Item in the name and on behalf of Lessee from whosoever shall be at the time in possession of such Item.

SECTION 16. ASSIGNMENTS BY LESSOR AND LESSEE; USE AND POSSESSION.

16.1. This Lease shall be assignable in whole or in part by Lessor without the consent of Lessee, but Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. In the event that separate assignments are executed by the Lessor in respect of this Lease and the rental and other sums due and to become due hereunder, the Lessor and the Lessee agree that so long as such separate assignments remain in force and effect this Lease shall be deemed to be and shall be construed as a divisible and severable contract between the Lessor and Lessee for the leasing of Equipment covered by each such separate assignment, all to the same extent and with the same force and effect as though a separate lease had had been entered into by the Lessor and the Lessee in respect of such Equipment. Upon notice to the Lessee of any such assignment, the Rental and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to the assignee. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's title, or any interruption from whatsoever cause (other than from a wrongful act of the assignee) in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of the assignee, the Lessee shall be unconditionally and absolutely obligated to pay the assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the assignee shall have the sole right to exercise all rights, privileges and remedies (either

in its own name or in the name of the Lessor for the use and benefit of the assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor.

16.2. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment (except to the extent that the provisions of any mortgage now or hereafter created on any of the liens of railroad of the Lessee may subject such leasehold interest to the lien thereof). The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except to the extent permitted by the provisions of Sections 16.3, 16.4 or 16.5 hereof.

16.3. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Equipment and to the use thereof by it or by any other corporation which constitutes one of the "National Railways" as that term is defined in the Canadian National Railways Act, or upon lines of railroads over which the Lessee or any such corporation has trackage or other operating rights or over which equipment of the Lessee or any such corporation is regularly operated pursuant to contract and also to permit the use of the Equipment upon connecting and other railroads in the usual interchange of traffic and to permit the sub-letting or lease temporarily or to permit the emergency use by other parties of any item of Equipment in the normal course of business, but only upon and subject to all the terms and conditions of this Lease. No assignment, sublease or interchange entered into by the Lessee hereunder shall relieve the Lessee of any liability or obligations hereunder which shall be and remain those of a principal and not a surety.

16.4. Nothing in this Section 16 shall be deemed to restrict the right of Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation (which shall have duly assumed the obligations hereunder of Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of Lessee as an entirety or substantially as an entirety.

16.5. Nothing in this Section 16 shall be deemed to restrict the right of the Lessee to sublease the Equipment to any

wholly owned subsidiary of the Lessee. No such sublease shall relieve the Lessee of any liability or obligation hereunder which shall be and remain those of a principal and not a surety.

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The Lessor and the Agent represent and warrant as follows:

- (a) On the delivery date for each Item of Equipment the Lessor shall have such title thereto as it received from the manufacturer or supplier thereof.
- (b) Any sale, assignment, transfer, mortgage or other disposition which the Lessor or the Agent may make of this Lease or any Item of Equipment covered thereby, whether prior or subsequent to execution and delivery thereof, shall be made expressly subject to the terms and provisions of this Lease and all rights of the Lessee thereunder.
- (c) Neither the Lessor nor the Agent have created nor will they create any claim, lien or encumbrance against any Item of Equipment so as to interfere with or impair
 - (i) the Lessee's possession and use of such Item of Equipment in accordance with the terms of this Lease; or

SECTION 18. OPTIONS OF COUNSEL.

18.1. Concurrently with the delivery and acceptance of the first Item of Equipment hereunder, the Lessee will deliver to the Lessor five counterparts of the written opinion of counsel for the Lessee addressed to the Lessor, the Agent and to any assignee under Section 16 of which the Lessee has notice, in scope and substance satisfactory to the Lessor, to the effect that:

- (a) The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of Maine;
- (b) The Lessee has the corporate or other power and authority to own its property and carry on its business as now being conducted and is duly qualified to do business as a foreign corporation in all states in which such qualification is necessary to carry out the terms of the Lease;

(c) This Lease and the Agreement to Acquire and Lease of even date herewith, among the Lessor, the Agent and the Lessee have been duly authorized, executed and delivered by the Lessee and constitute the valid, legal and binding agreements of the Lessee enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganization, insolvency and moratorium laws from time to time in effect;

(d) Once this Lease is filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and deposited with the Registrar General of Canada pursuant to Section 148 of the Railway Act, no other filing, recording or depositing is necessary to protect the Lessor's title to the Equipment in the United States of America and in Canada;

(e) No approval, consent or withholding of objection is required from any public regulatory body with respect to the entering into or performance of the Agreement to Acquire and Lease or this Lease;

(f) The execution and delivery by Lessee of the Agreement to Acquire and Lease and the Lease do not violate any provision of any law, any order of any court or governmental agency, the Act of Incorporation or By-Laws of the Lessee, or any indenture, agreement, or other instrument to which Lessee is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement, or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Lessee, except as contemplated and permitted hereby; and

(g) As to any other matters which Lessor shall reasonably request.

18.2. Concurrently with the delivery of the opinion of counsel for the Lessee as provided in Section 18.1 hereof, the Lessor will deliver to the Lessee five counterparts of the written opinion of General Counsel for the Agent and special counsel for

the Lessor, in scope and substance satisfactory to the Lessee with respect to the matters set forth in (a), (b), (c) and (f) of such Section 18.1 as such matters may appropriately pertain to the Lessor, the Agent or both of them.

SECTION 19. INTEREST ON OVERDUE RENTALS AND AMOUNTS PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding any nonpayment of rentals due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the obligation on the part of the Lessee to pay also an amount equal to 11% (or the lawful rate, whichever is less) of the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 20. NOTICES.

Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the Canadian certified mails, first class postage prepaid, addressed as follows:

If to the Agent:

Trustees under D.W.P. Trust No. 2
c/o United States Leasing International, Inc.
633 Battery Street
San Francisco, California 94111

If to the Lessee:

Duluth, Winnipeg & Pacific Railway Company
c/o Richard H. Hastings
Attorney at Law
1200 Alworth Building
Duluth, Minnesota 55802
with a copy to
Canadian National Railway Company
935 Lagauchetiere Street West
Montreal, Canada
Attention: Treasurer

If to the Lessor:

Trustees under D.W.P. Trust No. 2
c/o United States Leasing Corporation
1211 West 22nd Street
Oak Brook, Illinois 60521
with a copy to the Agent

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. A copy of any notice required or permitted to be given to the Lessor shall also be furnished in the same manner as above, addressed to:

Manufacturers and Traders Trust Company
Trustee under D.W.P. Trust No. 2
One M & T Plaza
Buffalo, New York 14240

Attention:

SECTION 21. EXECUTION IN COUNTERPARTS.

This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

SECTION 22. LAW GOVERNING.

This Lease shall be construed in accordance with the laws of Illinois; provided, however, that the parties shall be entitled to all rights conferred by any applicable federal statute, rule or regulation.

SECTION 23. OPTION TO PURCHASE.

23.1. Provided that the Lessee is not in default, Lessee shall have the right to purchase all but not less than all of the Items of Equipment then leased hereunder at the expiration of the original term therefore at a price equal to the "fair market value" (as defined). The Lessee shall give the Lessor written notice 180 days prior to the end of the original term of its election to exercise the purchase option provided for in this Section. Payment of the option price shall be made at the place of payment specified in Section 2 hereof in funds there current against delivery of a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Equipment and containing a warranty against liens or claims of persons claiming by, through or under the Lessor except liens and claims which the Lessee assumed or is obligated to discharge under the terms of the Lease. The Lessor shall not be required to make any representation or warranty as to the condition of the Equipment or any other matters.

23.2. The "fair market value" shall be such amount as is mutually agreed upon by the Lessor and the Lessee; provided that if the Lessor and the Lessee are unable to agree upon the fair market value of the Equipment within 30 days after receipt by the Lessor of the notice of the Lessee's election to exercise the purchase option, the fair market value shall be determined by an appraiser selected by mutual agreement of the Lessor and the Lessee. If the Lessor and the Lessee are not able to agree upon an appraiser, or if the fair market value is not so determined within 90 days after receipt by the Lessor of the Lessee's election to purchase, the same shall be determined by American Appraisal Company. The fair market value as finally determined shall bear interest for the period, if any, from the date of expiration of this Lease to the date of payment at the rate of 10½% per annum.

SCHEDULE 1-C

MANUFACTURER: Marine Industries, Ltd.

PLANT OF MANUFACTURER: Montreal, Quebec

DESCRIPTION OF EQUIPMENT:
(INCLUDING ROAD NUMBERS) 22 70-ton steel bulkhead flat cars bearing road numbers
DWC 608,778 through
DWC 608,799, both inclusive

PRICE: \$13,950.00 per unit
\$306,900.00 for all 22 units

DELIVER TO: Duluth, Winnepeg and Pacific Railroad Company, as designated by the Railroad

OUTSIDE DELIVERY DATE: January 7, 1971

RENTAL PERIOD: Twenty (20) years, commencing with the first Rental Payment Date

FIXED RENTAL PAYMENTS: Forty (40) semiannual rental payments, each in advance, at \$657.05 per Item of Equipment or an aggregate of \$14,455.10 for all 22 units

DAILY INTERIM RENT: \$3.6813 per day per car

ANNUAL RENEWAL: None

LESSEE: Duluth, Winnepeg & Pacific Railraod - Trust No. 2
TRUSTOR: The Manufacturer & Traders Trust Company
LENDER: Bankers National Life Insurance Company

Estimated
Equipment Cost Basis:

In Canadian Dollars	\$13,950.00 per unit
In U. S. Dollars at 100%	\$13,950.00 per unit

In the event the final price of any Items covered by this Schedule is more or less than the amount shown above or the conversion rate of U. S. Dollars to Canadian Dollars is more or less than par the rentals for such Item shall be ratably increased or reduced.

All "Dollar" amounts are expressed in United States Dollars and all payments under this Schedule shall be made in United States Dollars by check or draft of or drawn on a United States bank.

SCHEDULE 1-D

MANUFACTURER: Marine Industries, Ltd.

PLANT OF MANUFACTURER: Montreal, Quebec

DESCRIPTION OF EQUIPMENT:
(INCLUDING ROAD NUMBERS) 161 70-ton steel bulkhead flat cars bearing road numbers
DWC 608,800 through
DWC 608,960, both inclusive

PRICE: \$13,950.00 per unit
\$2,245,950.00 for all 161 units

DELIVER TO: Duluth, Winnepeg and Pacific Railroad Company, as designated by the Railroad

OUTSIDE DELIVERY DATE: January 7, 1971

RENTAL PERIOD: Twenty (20) years, commencing with the first Rental Payment Date

FIXED RENTAL PAYMENTS: Forty (40) semiannual rental payments, each in advance, at \$657.05 per Item of Equipment or an aggregate of \$105,785.05 for all 161 units

DAILY INTERIM RENT: \$3.6813 per day per car

ANNUAL RENEWAL: None

LESSEE: Duluth, Winnepeg & Pacific Railraod - Trust No. 2
TRUSTOR: The Manufacturer & Traders Trust Company
LENDER: Los Angeles County Employees Retirement Association

Estimated
Equipment Cost Basis:

In Canadian Dollars	\$13,950.00 per unit
In U. S. Dollars at 100%	\$13,950.00 per unit

In the event the final price of any Items covered by this Schedule is more or less than the amount shown above or the conversion rate of U. S. Dollars to Canadian Dollars is more or less than par the rentals for such Item shall be ratably increased or reduced.

All "Dollar" amounts are expressed in United States Dollars and all payments under this Schedule shall be made in United States Dollars by check or draft of or drawn on a United States bank.

SCHEDULE 1-E

MANUFACTURER: Marine Industries, Ltd.

PLANT OF MANUFACTURER: Montreal, Quebec

DESCRIPTION OF EQUIPMENT:
(INCLUDING ROAD NUMBERS) 22 70-ton steel bulkhead flat cars bearing road numbers
DWC 608,961 through
DWC 608,932, both inclusive

PRICE: \$13,950.00 per unit
\$306,900.00 for all 22 units

DELIVER TO: Duluth, Winnepeg and Pacific Railroad Company, as designated by the Railroad

OUTSIDE DELIVERY DATE: January 7, 1971

RENTAL PERIOD: Twenty (20) years, commencing with the first Rental Payment Date

FIXED RENTAL PAYMENTS: Forty (40) semiannual rental payments, each in advance, at \$657.05 per Item of Equipment or an aggregate of \$14,455.10 for all 22 units

DAILY INTERIM RENT: \$3.6813 per day per car

ANNUAL RENEWAL: None

LESSEE: Duluth, Winnepeg & Pacific Railraod - Trust No. 2
TRUSTOR: The Manufacturer & Traders Trust Company
LENDER: Mutual Trust Life Insurance Company

Estimated
Equipment Cost Basis:

In Canadian Dollars	\$13,950.00 per unit
In U. S. Dollars at 100%	\$13,950.00 per unit

In the event the final price of any Items covered by this Schedule is more or less than the amount shown above or the conversion rate of U.S. Dollars to Canadian Dollars is more or less than par the rentals for such Item shall be ratably increased or reduced.

All "Dollar" amounts are expressed in United States Dollars and all payments under this Schedule shall be made in United States Dollars by check or draft of or drawn on a United States bank.

SCHEDULE 1-F

MANUFACTURER: Marine Industries, Ltd.

PLANT OF MANUFACTURER: Montreal, Quebec

DESCRIPTION OF EQUIPMENT:
(INCLUDING ROAD NUMBERS) 17 70-ton steel bulkhead flat cars bearing road numbers
DWC 608,983 through
DWC 603,999, both inclusive

PRICE: \$13,950.00 per unit
\$237,150.00 for all 17 units

DELIVER TO: Duluth, Winnepeg and Pacific Railroad Company, as designated by the Railroad

OUTSIDE DELIVERY DATE: January 7, 1971

RENTAL PERIOD: Twenty (20) years, commencing with the first Rental Payment Date

FIXED RENTAL PAYMENTS: Forty (40) semiannual rental payments, each in advance, at \$657.05 per Item of Equipment or an aggregate of \$11,169.85 for all 17 units

DAILY INTERIM RENT: \$3.6813 per day per car

ANNUAL RENEWAL: None

LESSEE: Duluth, Winnepeg & Pacific Railraod - Trust No. 2
TRUSTOR: The Manufacturer & Traders Trust Company
LENDER: Washington National Insurance Company

Estimated
Equipment Cost Basis:

In Canadian Dollars	\$13,950.00 per unit
In U. S. Dollars at 100%	\$13,950.00 per unit

In the event the final price of any Items covered by this Schedule is more or less than the amount shown above or the conversion rate of U. S. Dollars to Canadian Dollars is more or less than par the rentals for such Item shall be ratably increased or reduced.

All "Dollar" amounts are expressed in United States Dollars and all payments under this Schedule shall be made in United States Dollars by check or draft of or drawn on a United States bank.

CERTIFICATE OF ACCEPTANCE
UNDER EQUIPMENT LEASE

TO: George D. MacKay and Edward E. Castans, as Trustees under Trust Agreement dated as of August 17, 1970.

UNITED STATES LEASING INTERNATIONAL, INC., as Agent for the Trustees.

MARINE INDUSTRIES, LTD., as Manufacturer.

I, duly appointed inspector and authorized representative of Duluth, Winnipeg & Pacific Railway Company ("Lessee") for the purpose of the Agreement to Acquire and Lease and the Equipment Lease, both dated as of August 17, 1970 between George D. MacKay and Edward E. Castans, Trustees under the Trust Agreement dated August 17, 1970, as Lessor, United States Leasing International, Inc., as Agent for the Trustees, and the Lessee, do hereby certify that I have inspected, received, approved and accepted delivery, on behalf of Lessee under said Agreement, of the following pieces of Equipment:

TYPE OF EQUIPMENT:

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF UNITS:

NUMBERED:

I do further certify that the foregoing Equipment is in good order and condition, and appears to conform to the specifications applicable thereto and to all applicable Interstate Commerce Commission or other foreign or domestic agency governmental requirements and specifications.

The execution of this Certificate will in no way relieve or decrease the responsibility of the Manufacturer of the Equipment for any warranties it has made with respect to the Equipment.

Dated: _____, 1970

Inspector and Authorized Representative
of Duluth, Winnipeg
& Pacific Railway Company

DULUTH, WINNIPEG & PACIFIC RAILWAY COMPANY - TRUST NO. 2

SCHEDULE OF CASUALTY VALUE

CASUALTY VALUE: The following percent of original cost to Lessor of an Item of Equipment, including all taxes and delivery charges, is to be paid on a rental payment due date pursuant to Section 11 of the Equipment Lease as the result of an Item becoming the subject of a Casualty Occurrence, depending upon when the Casualty Value is paid:

<u>After Rental Payment No.</u>	<u>Payable on Date and in Lieu of Payment No.</u>	<u>Casualty Value Payable Per Item (in lieu of rental payment for such item due on such date)</u>
0	as provided in Section 11.5 of the Lease	
1	2	102.500
2	3	101.750
3	4	101.000
4	5	100.125
5	6	99.250
6	7	98.375
7	8	97.375
8	9	96.375
9	10	95.250
10	11	94.125
11	12	92.875
12	13	91.625
13	14	90.250
14	15	88.875
15	16	87.375
16	17	85.875
17	18	84.250
18	19	82.625
19	20	80.875
20	21	79.000
21	22	77.125
22	23	75.125
23	24	73.000
24	25	70.750
25	26	68.500
26	27	66.125
27	28	63.625
28	29	61.000
29	30	58.375
30	31	55.500
31	32	52.125
32	33	48.500
33	34	44.875
34	35	41.000
35	36	37.000
36	37	33.000
37	38	28.750
38	39	24.375
39	40	19.750
40	expiration date of lease term	15.000

TRUSTOR: MANUFACTURERS AND TRADERS TRUST COMPANY

STATE OF ILLINOIS)
COUNTY OF DuPAGE) ss.

On this 14th day of Sept, 1970, before me personally appeared George D. Mackay, to me known to be one of the persons described in and who executed the foregoing instrument and he acknowledged that he executed the same as his free act and deed.

Donna Marie Cargan

(Seal)

My Commission expires: April 17, 1974

STATE OF CALIFORNIA)

) ss.

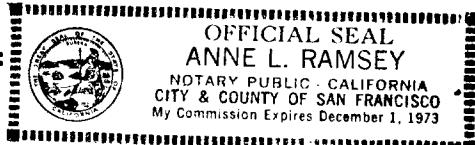
CITY AND COUNTY OF SAN FRANCISCO)

On this ^{11th} day of ^{September} 1970, before me personally appeared ^{Douglas L. Lay}, to me personally known, who being by me duly sworn, says that he is the ^{Senior Vice} President of UNITED STATES LEASING INTERNATIONAL, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Anne L. Ramsey

(Seal)

My commission expires:



Province of Manitoba
City of Winnipeg } ss.
} }

On this 10th day of September, 1970, before me personally appeared A. W. May, to me personally known, who being by me duly sworn, says that he is the President of DULUTH, WINNIPEG & PACIFIC RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

A. W. May
A. W. May

(Seal)

My commission expires: Sept. 1971